

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF WASHINGTON

3 UNITED STATES OF AMERICA,)
4 Plaintiff,) CR 12-001 RSL
5 vs.)
6 TIMOTHY DORAN,)
7 Defendant.)
8 _____)
9
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11 VERBATIM TRANSCRIPT OF PROCEEDINGS
12 OF

13 A MOTION HEARING
14 BEFORE THE HONORABLE MARY ALICE THEILER
15 8/29/2013

16 APPEARANCES

17 For the United States: Not Appearing
18 For Defendant: Nicholas Marchi
19
20

21 Transcribed from electronic sound recording
22 Transcript produced by transcription service
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25 Transcribed by Brian Killgore

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1 (Proceedings of 8/29/2013)

2 THE CLERK: All please rise, the Court is again in
3 session, the Hon. Mary Alice Theiler presiding.

4 THE COURT: Good morning. Please be seated.

5 So this is case number CR 12-001, United States v.
6 Timothy Doran -- or is it DOOR-UN? DOOR-ANN?

7 THE DEFENDANT: Either one.

8 THE COURT: What do you prefer?

9 THE DEFENDANT: DOOR-ANN.

10 THE COURT: DOOR-ANN?

11 And we have set it for an ex parte hearing meaning
12 the United States is not present because there is a
13 motion that was filed by Mr. Marchi to withdraw as
14 counsel. Mr. Marchi is here as well as Mr. Doran, and
15 so I guess, Mr. Doran, I would like to hear from you
16 about whether you want me to grant the motion and allow
17 Mr. Marchi to withdraw.

18 What is your position and if you could explain
19 why?

20 THE DEFENDANT: I have got some questions
21 about last week's court date first.

22 THE COURT: The one with Judge Lasnik?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: He -- what he has done is --
25 because I know you filed a motion to withdraw your

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1 guilty plea. He -- I'm guessing because I just looked
2 at the docket; that is all I know about your case --
3 apparently felt that the motion to withdraw as counsel
4 needs to be decided first, so he referred that to me --
5 just the issue of whether Mr. Marchi would be allowed
6 to withdraw and whether new, a new attorney would be
7 appointed.

8 So it looked to me from the docket -- Mr. Marchi
9 would probably know because he was there -- that your
10 motion is still pending.

11 Is that your sense, Mr. Marchi? Or did he
12 strike --

13 MR. MARCHI: Yes, Your Honor.

14 Mr. Doran is set for sentencing on September 12.

15 THE COURT: Okay.

16 MR. MARCHI: That sentencing date has been
17 stricken.

18 The motion to withdraw plea has been stricken but
19 pending this court's determination on representation.

20 THE COURT: Okay.

21 MR. MARCHI: It is my understanding that the
22 federal defender is prepared to step in once this court
23 makes a decision.

24 THE COURT: Oh. Oh, okay.

25 So Mr. Doran, can you explain why -- do you want

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1 me to grant the motion and if so why?

2 THE DEFENDANT: Mr. Marchi --

3 THE COURT: "Your motion" meaning whether Mr.
4 Marchi could withdraw?

5 THE DEFENDANT: Yes, ma'am.

6 Mr. Marchi mentioned last week in court that it
7 was the first time in 20 some odd years that he has
8 been an attorney that he had to file some kind of
9 motion or needed to withdraw on a certain grounds, and
10 I wanted that explained to me first what that was.

11 THE COURT: What? What what was, the motion
12 to withdraw?

13 THE DEFENDANT: Do you remember what you said
14 last week in court?

15 MR. MARCHI: No, Mr. Doran, I don't.

16 THE DEFENDANT: Okay.

17 THE COURT: He probably means that he has
18 never had to file a motion to withdraw as an attorney
19 under these circumstances before.

20 So --

21 THE DEFENDANT: Okay --

22 THE COURT: -- does it matter? I mean --

23 THE DEFENDANT: I just -- I had never heard
24 the terminology that he used for --

25 THE COURT: Oh, okay.

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1 THE DEFENDANT: -- the reason why, but as far
2 as Mr. Marchi still representing me, no, there is no
3 way at this point with the communication breakdown.

4 I keep asking for the same documents and they are
5 extremely pertinent to my case and I have a right to be
6 able to have them. Most of them are discovery. Other
7 ones are marshals' records -- evidence that the
8 prosecution has and Mr. Marchi's office refuses to send
9 them to me.

10 So I can't be proactive on my case without these
11 records. There's numerous letters that have been
12 written requesting these -- these documents and it just
13 falls on deaf ears, so to speak.

14 THE COURT: So do you want me to allow him to
15 withdraw and then to have new counsel appointed?
16 Probably it is going to be the Federal Defender's
17 Office?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: So you understand if I am -- and
20 what I -- the idea I'm getting from looking at the file
21 and then talking to you this morning is that you feel
22 there has been a conflict that has come up and based
23 on -- that you would like to withdraw your guilty plea.
24 As you know, you pled guilty last year in September.
25 You would like to withdraw your guilty plea.

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1 You -- I think I read in that motion that you feel
2 you weren't properly advised by Mr. Marchi; is that
3 part of what you were saying?

4 THE DEFENDANT: Most definitely.

5 THE COURT: So what I see as a result of that
6 statement is -- there seems to be a conflict of
7 interest between Mr. Marchi and you, and I don't know,
8 would you agree with this, Mr. Marchi?

9 MR. MARCHI: I do, Your Honor.

10 THE COURT: Yeah.

11 MR. MARCHI: It goes pretty extensive.

12 THE COURT: I think so, too, so I think under
13 the circumstances the Court should allow him to
14 withdraw and will appoint the -- you have never been
15 represented by the Federal Defender before in this
16 case, and you are the -- are you the only defendant in
17 the case?

18 THE DEFENDANT: Yes.

19 THE COURT: Yes?

20 So they don't have -- I wouldn't guess that they
21 have a conflict, as far as I know, so we will ask that
22 they be appointed.

23 Now just to, you know, advise you, that -- that
24 guilty plea now is still on the record, so even though
25 the sentencing date has been stricken because this

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1 issue has to be resolved, it is you and your new
2 attorney will have to work together if you want to try
3 to withdraw that plea.

4 So that still has to be pursued if that's what you
5 want to do.

6 You know in terms of the communication about
7 asking for documents and not getting things that you
8 wanted to have, that may or may not be possible. I
9 can't say what is going to happen next. I just do not
10 know whether they will be able to get that or what the
11 problems may be, but -- so the only thing I am doing is
12 allowing Mr. Marchi to withdraw and providing that
13 new -- a new attorney will be appointed. That is all
14 that Judge Lasnik asked me to do. Okay?

15 THE DEFENDANT: So as far as the documents
16 that I have requested multiple times that I am entitled
17 to have --

18 THE COURT: You will have to deal --

19 THE DEFENDANT: Getting Mr. Marchi's office
20 to --

21 THE COURT: You will have to deal with your
22 new lawyer on that. Yep.

23 THE DEFENDANT: And what about the Rules of
24 Professional Conduct as far as information that Mr.
25 Marchi has about my case?

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1 THE COURT: Oh, he will -- he will turn that
2 over without Weston, I'm sure. Is not in his head yes.
3 No doubt about that.

4 Anything he has will be turned over.

5 THE DEFENDANT: To just the --

6 MR. MARCHI: Your Honor?

7 THE DEFENDANT: -- defense or to the
8 prosecution?

9 THE COURT: Oh, no, no, no, no, to your
10 lawyer.

11 MR. MARCHI: Your Honor, for purposes of the
12 record and to make it very clear, I have already
13 prepared all of the files. We have approximately -- a
14 significant amount of paperwork that Mr. Doran has
15 requested, and that will be all turned over to the
16 government, including all CDs --

17 THE COURT: You mean to the defense lawyer?

18 MR. MARCHI: To the defense lawyer.

19 THE COURT: Yeah, not the government?

20 MR. MARCHI: Not the government.

21 Well, it is discovery that came from the
22 government.

23 THE COURT: Okay.

24 MR. MARCHI: So all of the discovery we
25 received from the government will go to his defense

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1 counsel. All of the requests for DVDs, CDs and mirror
2 images will all be turned over. Everything in our
3 control will be turned over -- just like Mr. Goldsmith
4 turned over to me.

5 THE COURT: Okay, but not to the prosecutor.
6 You heard what he said. It goes to the defense lawyer.

7 MR. MARCHI: It goes to the defense lawyer,
8 Your Honor.

9 THE COURT: Yeah. Okay.

10 All right, do I have a proposed motion?

11 No. I don't think I need one, do I? No.

12 THE CLERK: I will contact CJA at the
13 completion of this hearing.

14 THE COURT: Excellent. We will contact them
15 and we will get that going.

16 MR. MARCHI: Thank you, Your Honor.

17 THE COURT: All right, thank you.

18 THE CLERK: All rise, the Court is in recess.

19 (End of proceedings for 8/29/2013)
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CERTIFICATE

I certify that the foregoing is a correct transcript
from the electronic sound recording of the proceedings in
the above-entitled matter.

/Brian J. Killgore/

January 18, 2015

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